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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

PATRICIA HERBORN,

Plaintiff,

v.

MICHAEL J. ASTRUE,
Commissioner of
Social Security,

Defendant.

CIVIL NO. 4:11-CV-00013-SBA

JOINT MOTION AND ORDER FOR
REMAND PURSUANT TO SENTENCE
FOUR OF 42 U.S.C. § 405(g)

IT IS HEREBY STIPULATED by the parties, through their undersigned attorneys, and with the approval of the Court as provided below, that the Commissioner has agreed to a voluntary remand of this case pursuant to sentence four of 42 U.S.C. § 405(g) for further proceedings.

Upon remand, Upon remand, the claimant should be given the opportunity to participate in another hearing. If, for any reason, the Administrative Law Judge (ALJ) conducting the hearing cannot issue or sign the decision, the hearing office must comply with HALLEX I-2-8-40, which sets forth the applicable procedures for such a situation.

The ALJ must also evaluate and explain, pursuant to Social Security Rulings (SSR) 96-5p and 96-6p and 20 C.F.R. § 404.1527, what weight he gives to the August 20, 2009 opinion from Heidemarie Ernst, M.D., and he must re-evaluate the claimant's credibility pursuant to SSR 96-7p and 20 C.F.R.

§ 404.1529. The ALJ will update the medical record. Plaintiff will be offered an opportunity for a new hearing.

It is further stipulated that the administrative decision is hereby vacated and that the Clerk of this Court shall be directed to enter a separate judgment herein, as provided for under Rules 58 and 79(a) of the Federal Rules of Civil Procedure, pursuant to Shalala v. Schaefer, 509 U.S. 292, 113 S. Ct. 2625 (1993).

Respectfully submitted,

Dated: August 8, 2011

/s/ Pamela R. Vincent
(As authorized via email)
PAMELA R. VINCENT
Attorney for Plaintiff

Dated: August 8, 2011

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/s/ Kathryn R. Watson
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ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED that this action is reversed and remanded to the Commissioner of Social Security, pursuant to sentence four of 42 U.S.C. § 405(g) for further proceedings.

Dated: __8/11/11


SAUNDRA B. ARMSTRONG
United States District Judge